

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE OCUGEN, INC. SECURITIES
LITIGATION

Master File No.: 2:21-cv-02725

ORAL ARGUMENT REQUESTED

DEFENDANTS' MOTION TO DISMISS THE AMENDED COMPLAINT

Defendants Ocugen, Inc., Shankar Musunuri, and Bruce D. Forrest (collectively, “Defendants”), by and through their attorneys, respectfully move this Court to dismiss with prejudice the Amended Complaint of Lead Plaintiff Andre Galan Bernd Benayon (“Plaintiff”) pursuant to Federal Rules of Civil Procedure 12(b)(6) and 9(b) and the Private Securities Litigation Reform Act of 1995 (“PSLRA”), 15 U.S.C. §§ 78u-4(b), 78u-5, and 77z-2, for the reasons set forth below and in the accompanying memorandum of law.

1. The Amended Complaint fails to state a claim under Section 10(b) of the Securities Exchange Act of 1934 (“Exchange Act”) and Rule 10b-5 promulgated thereunder because Plaintiff has not pled an actionable misrepresentation or omission given (i) Plaintiff’s failure to plead non-conclusory facts supporting its allegations of falsity, (ii) no duty existed to make the disclosures suggested by Plaintiff, (iii) any alleged misstatement or omission is immaterial as a matter of law, and (iv) Defendants’ statements amount to nothing more than critiques of clinical trial design and general statements of optimism and puffery.

2. The Amended Complaint fails to state a claim under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder because the majority of the alleged false and misleading statements were immunized by the PSLRA’s safe harbor provision and therefore not actionable.

3. The Amended Complaint fails to state a claim under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder because Plaintiff's allegations fail to plead a strong inference of scienter.

4. The Amended Complaint fails to state a claim under Section 10(b) of the Exchange Act and Rule 10b-5 promulgated thereunder because Plaintiff has not adequately pled loss causation.

5. The Amended Complaint's claims under Section 20(a) and Section 20A of the Exchange Act are purely derivative of the Section 10(b) claim and therefore are deficient as a matter of law.

August 12, 2022

Respectfully submitted,

**TROUTMAN PEPPER HAMILTON
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/s/ Robert L. Hickok

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ORDER

AND NOW, this _____ day of _____, 2022, upon consideration of Defendants' Motion to Dismiss the Amended Complaint for failure to state a claim upon which relief can be granted, and any opposition and reply thereto, it is hereby ORDERED that Defendants' Motion is GRANTED. It is further ORDERED that the Amended Complaint is DISMISSED WITH PREJUDICE.

BY THE COURT:

Chad F. Kenney
United States District Judge

CERTIFICATE OF CONFERENCE PRIOR TO RULE 12 FILING

I, Robert L. Hickok, attorney for Ocugen, Inc., Shankar Musunuri, and Bruce Forrest, Defendants in this matter, certify, pursuant to this Court's Policies and Procedures for Counsel, that the parties met and conferred regarding the alleged pleading deficiencies at least seven days prior to the filing of the Defendants' Motion to Dismiss the Amended Complaint.

/s/ Robert L. Hickok

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CERTIFICATE OF SERVICE

I, Robert L. Hickok, attorney for Ocugen, Inc., Shankar Musunuri, and Bruce Forrest, Defendants in this matter, certify that a copy of the foregoing Defendants' Motion to Dismiss the Amended Complaint was served via this Court's electronic filing system upon all counsel of record this 12th day of August, 2022.

/s/ Robert L. Hickok

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